

**CITY OF MILPITAS
UNAPPROVED**

PLANNING COMMISSION MINUTES

September 22, 2004

**I.
PLEDGE OF
ALLEGIANCE**

Chair Lalwani called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Lalwani, Galang, Giordano, Mohsin and Sandhu
Absent: Garcia
Staff: Heyden, Carrington, Cuciz, and Lindsay

**III
PUBLIC FORUM**

Chair Lalwani invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

**IV.
APPROVAL OF MINUTES
September 8, 2004**

Chair Lalwani called for approval of the minutes of the Planning Commission meeting of September 8, 2004.

There were no changes from staff.

Commissioner Sandhu noted a change to page five, second paragraph from the bottom of the page, it should read "Commissioner Sandhu" instead of "Commission Sandhu."

Motion to approve the minutes as amended.

M/S: Giordano/Sandhu

AYES: 6

NOES: 0

**V.
ANNOUNCEMENTS**

James Lindsay, Acting Planning Manager, noted that staff has been working on a development proposal by KB homes for over a year and the public process is beginning. He wanted to make the commissioners aware of several dates regarding this project. On October 7, 2004, KB Homes will hold a community meeting in the Fire Training Room at Fire Station 1, beginning at 6:30 p.m. Staff will attend to take notes, but KB Homes will be conducting the meeting independent of staff. The project will also be on the Planning Commission agenda of October 13, 2004 for a work session so the commission can see the design and provide comments. On October 20, 2004, staff will conduct an EIR meeting at the Cracolice building at 6:00 p.m. with the purpose of presenting the draft Environmental Impact Report to the public. Staff is hoping to bring the KB Home design to the Planning Commission again in November. Currently, there is only one Planning Commission meeting scheduled in November which will be held on November 10, 2004, and staff will be asking the commission to consider moving that meeting to November 17, 2004, and either still having only one meeting in November, or having a second commission meeting where the Planning Commission would meet on both November 10, 2004, and November 17, 2004. These dates can be considered at the next Planning Commission meeting.

**VI.
APPROVAL OF
AGENDA**

Chair Lalwani called for approval of the agenda.

There were no changes from staff.

Motion to approve the agenda.

M/S: Giordano/Sandhu

AYES: 6

NOES: 0

**VII.
CONSENT CALENDAR
Consent Item Nos. 1 and 2**

Staff had clarification on item 5 and noted that a memo was distributed referring to new condition of approval on this item. Staff requested for this item to remain on the consent calendar with the extra condition added as noted in the memo.

Staff requested that item 1 should be added to the consent calendar. There is a letter from the applicant requesting a continuance, as they need an additional month to work out the details on this item. The Public Hearing can remain open with the item on consent and be continued to the Planning Commission meeting of October 27, 2004.

Chair Lalwani opened the public hearing on Consent Item Nos. 3, 4 and 5.

There were no speakers from the audience.

Close Public Hearing

Motion to close the public hearing on Consent Item Nos. 3, 4 and 5.

M/S: Sandhu/Mohsin

AYES: 6

NOES: 0

Motion to approve the consent calendar on Consent Item Nos. 3, 4 and 5.

Add Item No. 1 since it was put on consent

***3 USE PERMIT NO. UP2004-10** (*Continued from September 8, 2004*): Request to install six (6) telecommunication panel antennas on an existing PG&E lattice tower and associated ground mounted equipment on 2 adjacent parcels located at 865 Vasona Street (APN's: 022-05-077 and 079), zoned Single Family Residential (R1-6). Applicant: Cingular Wireless. Project Planner: Kim Duncan, (408) 586-3283. (PJ# 2369) (*Recommendation: Approval with Conditions*)

***4 USE PERMIT NO. UP2004-18 AND S-ZONE APPROVAL AMENDMENT NO. (SA2004-71)**: A request to locate telecommunication antennas inside the existing 93 foot tall elevator tower at the Great Mall Shopping Center, zoned C-2 (General Commercial), at 1100 Main Street (APN: 086-24-055). Applicant: Tetratex for Nextel of California. Project Planner: Troy Fujimoto, (408) 586-3287. (PJ# 2383) (*Recommendation: Approval with Conditions*)

***5 USE PERMIT NO. UP2004-25:** A request for a temporary tract office and signs for the Parc Place residential project, zoned R-4 (Multi-Family Very High Density), at 95 E. Curtis Avenue (APN: 086-25-024). Applicant: Craig Champion. Project Planner: Troy Fujimoto, (408) 586-3287. (PJ# 3169) *(Recommendation: Approval with Conditions)*

Motion to add item 1 to consent calendar.

M/S: Sandhu/Mohsin

AYES: 6

NOES: 0

Motion to approve consent calendar item 1.

M/S: Sandhu/Galang

AYES: 6

NOES: 0

**2. CONSIDERATION OF
AMENDMENTS TO THE
ZONING ORDINANCE,
SIGN ORDINANCE AND
NEIGHBORHOOD
BEAUTIFICATION
ORDINANCE TEXTS
(ZT2004-2):**

Tambri Heyden, Acting Planning and Neighborhood Services Director, presented background information on this item. She stated that this item was presented to the City Council approximately five months ago to expand the code enforcement program. The City Council requested staff to move to phase two of the Neighborhood Beautification Ordinance Program that was originally initiated by the CAC and has been in affect for three years. Staff also requested a transition from a complaint driven program to staff canvassing residential and non-residential areas to detect violations. When staff brought this proposal to the City Council, they requested review from the CAC and Economic Development Commission, which has occurred, in addition to the standard Planning Commission review. This item has been advertised for City Council for a first reading on October 5, 2004. Staff is using this opportunity to make the sign code more user friendly, as it is an old and outdated ordinance. Many of the sections have been moved and consolidated.

Dennis Carrington presented item 2, Consideration Of Amendments To The Zoning Ordinance And Neighborhood Beautification Ordinance Texts (ZT2004-2), and reviewed the amendments to the code. He noted that staff has proposed definitions that are typically in ordinances throughout the state. For instance, there are several uses of the word "temporary" sign in the ordinance and in any other jurisdiction these are referred to as window signs which is a change being proposed by staff. This is an example of some of the minor changes proposed which provide clarification and characterize most of the changes. Also, all prohibited signs have been moved into one section.

Garage sales sign are now permitted in greenways and staff is proposing a clarification that they be freestanding and not attached to public utility poles or on public property. No substantive changes on open house directional signs other than they must be freestanding. Staff is also working on the ordinance to provide equity in the way the rules are implemented. Another change includes reducing the amount of time for someone to comply when they have been sited for a nuisance from the current time of 30 days down to 15 days.

Commissioner Mohsin asked for clarification on freestanding signs for garage sales. Mr. Carrington responded that these signs could be on a stick or could be an A frame sign, however, these signs should not be attached to signal or utility poles. Staff would like it to be clear in the ordinance that the city prohibits signs on signal and utility poles and this is a liability and creates public safety issues. Commissioner Mohsin asked where the public could get free standing signs. Mr. Carrington responded that anyone could easily obtain materials at Home Depot and put a sign in the greenway where it won't block official signage that needs to be seen. There are ways to have signage where it's not on a utility pole

Commissioner Giordano provided some history as she had chaired a sign review subcommittee some time ago during her prior service on the Planning Commission and went through an intense review process. She stated that she realizes that the ordinance needs to be updated and she appreciates the effort from staff. She noted that during the review process, they had a group of people that would be affected such as business groups and realtors, and the group also included members from the Planning Commission and the CAC, among others. They also looked for direction from some community groups as well. As she recalls, they reviewed what other cities were doing and then they moved it forward to the City Council. She finds the current material confusing as it makes reference to balloon signs and references to what other cities are doing and how they prohibit certain signs. Then there is a reference to open house directional signs yet there is no reference that compares this to other cities. There is also confusion about coming soon signs. Perhaps the commission needs to review each part and make a determination to agree or disagree. The process involved should be different than how it's being presented now and she would like to have more time to review the issue. She asked if this was born out of a City Council action taken five months ago to review the sign ordinance or if this is part of the neighborhood beautification process.

Mr. Carrington replied that he can address citations and the City Council did give direction to make these regulations more equitable across the ordinances (sign, neighborhood beautification and zoning ordinances.) Staff saw inefficiencies in the ordinance and saw a need to repackage it. It's the same information but it is coordinated differently. And where there were no regulations or definitions staff is proposing some. Staff is making a proposal for the Planning Commission to adopt the sign program, which would be a flexible approach for providing signage for major commercial and industrial developments. This would be very business and development friendly while giving the city exceptional signage. Staff has worked to make the ordinance easier to understand and administer.

Commissioner Giordano stated her concern about moving this item forward to the City Council. She is concerned that there are deviations beyond the definitions and there is policy that is being set. She stated that she would like to hear from members of the public.

Commissioner Sandhu stated that he has seen people holding balloon signs for buildings and apartments and asked if that is covered in the ordinance. Mr. Carrington said yes and this type of sign would be prohibited under Moving Signs. Commissioner Sandhu asked about electronic signs. Carrington stated that those are a different kind of signage not being addressed and he is recommending that the City should have a flexible approach and would have reader board signs included if necessary,

but there would be a prohibition against someone standing on the corner swinging a sign. Commissioner Sandhu asked about the change proposing fifteen days as opposed to thirty days to correct a violation. Mr. Carrington stated that typically in a violation situation, the violator will wait until the last day to comply and very often they have been in the system with prior violations. Staff does have the flexibility to allow more time if necessary depending on the issue. Commissioner Sandhu asked who would determine the amount of time. Ms. Heyden stated that code enforcement staff would make the decision and the violator could come into City Hall or call city staff if they have a hardship.

Commissioner Galang asked about blinking and flashing signs and those that direct a spotlight to a sign. Mr. Carrington stated that illumination is not a problem, however, Las Vegas style blinking lights would be prohibited which can be very distracting to drivers. Commissioner Galang asked about kids putting balloons on mailboxes for parties. Mr. Carrington stated that the city does not regulate that.

Chair Lalwani opened the public hearing.

Nicholas Ammann with SCORE, a realtors group, requested a continuance on this item. He noted some confusion with the issue. He stated that they do not necessarily have a problem with the policy, however, they have not had adequate time to review it as they only received the information the day before this meeting.

Tim Howard, 491 Santos Drive, stated that he agrees with Commissioner Giordano about having a subcommittee to review this issue. He stated that this effort is too rushed and he has only had a day to review this. He stated his confusion and believes that there are more than simple administrative changes in the ordinance. Some questions include how much the administrative fee will be and how it works. Also, he is concerned about freestanding garage sale signs being required as A frames, yet under Section 6 he read that A frames are prohibited unless you are a realtor. Also, citizens that have garage sales will not read the sign ordinance and will not know that they are in violation. Limiting a banner to 30x24 inches does not always work for the design layout it makes more sense to dictate size, not square feet. The limitations to the coming soon sign are problematic as well, especially when a larger project needs a bigger sign. He stated the need to know the appeal process for sign violations or fines. He stated the need for more public input and suggested deferring this item to a later date.

George Donovan, 200 Serra Way, owner and manager Serra Shopping Center. He has had Serra Shopping Center since 1967 and has never been cited for signs. He stated that he concurs with the speakers and agrees that this issue has been rushed. There are a variety of issues that will impact those affected. He suggested obtaining more public input and he asked if the commission received the letters. He noted a meeting scheduled later this week with the Santa Clara County Association of Realtors and the National Association of Industrial and Office Property Owners and he suggested waiting until after this meeting to make a decision. All of the letters sent to the commissioner are consistent. The community needs more time to analyze the economic impact of the proposed amendments to the ordinance. He stated the he saw the matrix for the first time only six business days ago. There are more than sixty pages of material and six days is not adequate time for the public to respond. He stated that the details of the ordinance are the job of the Planning Commission and hopes that they will take a more detailed look before moving this on to the City Council. He requested that the Planning Commission carefully review the ordinance, address issues being raised, and have a dialogue with the community and continue this item.

Ed Connor, 1515 N. Milpitas Blvd. He stated that the first amendment allows for free speech and that is what a sign is. He stated his confusion about this item and does not think this is necessary.

Gaye Moranda, Executive Manager, Milpitas Chamber of Commerce, stated that the Chamber is having a board meeting tomorrow and they have not had a chance to review this. She recalled that there was a subcommittee several years ago. She stated that it is good to look at beautification from time to time. She requested a postponement of this item to give the chamber time to review this issue. She suggested a subcommittee with a cross section from the business community before making a final decision.

Don Peoples, property and business owner at 529 S. Main Street. He stated that he would like to see a specific process. He stated the he recognizes the need for a sign ordinance that is clear and accessible. He stated that there needs to be control of temporary signs and he can see temporary signs looking out his front door. There happens to be a chain link fence across from his property that always gets plastered with signs and he stated that there is not a mechanism to deal with this sign problem. He stated that he has had confrontations with people when he is trying to deal with the sign issue and that they plaster signs all over the city. He stated that it would be good to know that people who put up signs have applied for a permit and that he could know when it is appropriate to take a sign down or when to call the city. He stated that there are advantages to amending the ordinance and encourages the dialogue to continue.

Don Ryan, 2144 LaCuesta Drive. He stated that the review is excellent, however, he is disappointed that the community was not involved. He has concerns about 3x3 foot car signs and how the signs on city vehicles would now need to be reduced and who would pay for this. He has concerns about the permits that will be needed, but there were no projections of costs for administering permits. He requested more input from the community before moving forward.

Frank De Smidt, Milpitas Chamber of Commerce, Government Affairs Committee. He stated an aspect not brought up yet that scares him and that is to change the philosophy of enforcement from complaint driven reports to staff reporting. He stated that this is a time when the economy is weak and this seems to be a new obstacle to a business being successful if being sought out for violations. He also stated his concern about moving and garage sale signs, which will affect the neighborhoods. He is also concerned about signs for Girl Scouts, Boy Scouts and car washes and how this would affect young people. Also, he stated issues about signs for political demonstrations. He stated that all of these issues need to be explored in more detail before taking action.

Motion to close the public hearing.

M/S: Sandhu/Giordano

AYES: 6

NOES: 0

Chair Lalwani asked staff who received information about this issue and when they received it. Ms. Heyden stated that the CAC received this information one week before their meeting on September 1st, and the Economic Development Commission received it one week before their meeting on September 13th. Chair Lalwani asked if businesses received a notice. Ms. Heyden stated that no specific notices were sent to businesses. Ms. Heyden requested to make a suggestion as staff has some minimum needs in terms of changes to the code in order to begin the expanded code enforcement program. She noted that staff recognizes the need to review the entire sign code comprehensively next year and would hire a consultant to work with staff on this issue and there would be significant community outreach at that time as well. Ms. Heyden asked if the Planning Commission would consider the idea of only passing on five components in the ordinance that would; 1) allow administrative citation authority to the sign code and the NBO; 2) definition of individual violations versus continuous violations; 3) reduction in timeframe from 30 to 15 days to comply with a violation; 4) sign registration for temporary signs (which is a free process); and 5) allowing sign programs rather than variances to deviate from the sign code. Ms. Heyden asked if the Planning Commission could move these five components forward at this time and table the remaining issues with the sign code for a much later date to look at the sign code more comprehensively and form a subcommittee.

Chair Lalwani clarified that staff is asking for these five components to be approved and the remaining issues will be tabled until further review next year.

Commissioner Galang stated that he needs more time to understand the issues and there is a need for more public input. His recommendation is to continue this item to the next Planning Commission meeting. He noted that if staff is looking for approval on a major issue, he would like discussions at prior meetings first.

Commissioner Giordano stated that she does not want to pass this item, nor does she want to approve portions of the ordinance at this time. She stated that staff could come back with specific urgent issues at a future meeting for critical needs. She stated the need to restart the process, and she knows that staff has completed much of the work already. She is looking for consensus to have this issue addressed by the City Council and have them create the solution and they could create a subcommittee. In the past, the City Council had created the subcommittee that she participated on. Ms. Heyden noted that the five components that staff is looking for approval on were presented to the City Council as a proposal without specific code language yet, to get policy direction from them. The City Council did direct staff to move forward and put these issues in ordinance form, as well as obtaining feedback from the CAC, Economic Development Commission and the Planning Commission. She stated that staff can put the five components in a document and bring those back to the Planning Commission at their next meeting.

Commissioner Sandhu stated that the commission has heard many concerns from the public this evening. He stated that there has not been enough public input yet and he cannot vote to move the proposal forward at this point.

Commissioner Mohsin requested that staff should obtain more input from the community and then provide more time to understand the document before it comes back to the commission. She noted that the item should be tabled at this time and brought back at a later date.

Commissioner Giordano reiterated that this issue has been addressed in the past and typically there has been a subcommittee or task force and she is concerned that this is not happening at this time. She noted the need for someone to designate how this process will proceed (i.e. the City Council, Planning Commission or staff.) Ms. Heyden noted that the City Council gave staff direction to deal with these issues. Ms. Heyden suggested striking this item from the agenda and bringing back the individual components that need to be dealt with right away.

Motion to direct staff to create a subcommittee to review the sign ordinance then bring this issue back to the Planning Commission for review.

M/S: Mohsin/Giordano

AYES: 6

NOES: 0

VIII. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:25 p.m. to the next regular meeting of October 13, 2004.

Respectfully Submitted,

James Lindsey
Acting Planning Manager

Holly Cuciz
Recording Secretary